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WORKING SESSION MEMORANDUM

DATE: July 13, 2012

TO: Alderman Marcia Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
Seth Zeren, Chief Zoning Code Official 

RE: #162-12: THE ECONOMIC DEVELOPMENT COMMISSION requesting a one-year moratorium, starting immediately, where no bank shall be allowed to be built or opened for business on the ground floor of any building in any Business District within the city unless granted a Special Permit from the Board of Aldermen.

MEETING DATE: Working Session on July 16, 2012

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

EXECUTIVE SUMMARY

At the Zoning and Planning Committee working session on June 25th, Chris Steele, Chairman of the Economic Development Commission (EDC), introduced Docket Item #162-12, which is intended to address the increasing number of banks and financial services in Newton's village commercial centers. The proposed docket item is not meant as a permanent solution to what some consider an overabundance of financial institutions. Instead the provision is intended to create an "oversight period" to slow down the opening of new banks and give the Board time to consider zoning changes that can address the overall vitality of the retail mix in village commercial centers. The Planning Department prepared this memorandum in response to the EDC's presentation and the questions of the Committee on June 25th. Staff research shows that the number of banks in Newton increased from 41 in 2007 to 43 in 2011 and estimates a total of 45 by the end of 2012; however, it is difficult to estimate the net effect on the village centers. Banks are believed to be able to pay more rent for access to prime locations in higher income communities to advertise their brand. Banks have a parking requirement similar to many retail uses, which they are able to replace by right unlike more active uses, such as restaurants, which have higher parking demands and often require special permits to waive required parking.

The proposed special permit requirement for banks on the first floor will create a temporary brake on the establishment of new banks; banks would still be allowed by right above or below street level. The proposal would not create a moratorium, *per se*, but rather adds a level of Aldermanic review, perhaps causing banks to think twice before entering the market. This “oversight period” would provide a one-year window for staff and the Board to explore and review more comprehensive zoning alternatives to supporting village vitality, including changes to the parking ordinance and zoning text for village centers and/or the creation of new mixed-use zones or overlays, as well as non-zoning efforts to educate and organize property owners. If the Board agrees that the number of banks presently locating in village center storefronts is a concern, then the proposed remedy would likely slow down the arrival of new banks while the Board considers a more comprehensive approach to supporting village vitality.

ANALYSIS

Impact of Banks on Village Centers

The EDC and others have expressed concern that in some villages, banks have occupied numerous storefronts, thus limiting the number of other services and amenities provided to residents. From a land use planning perspective, banks are generally closed during evenings and weekends, in contrast to more active uses like retail stores, restaurants, and personal service establishments. Certainly banking services are important to a healthy retail mix, but a high concentration of banks may reduce the number of other, more active uses overall, creating dead zones on nights and weekends and reducing the synergy between uses created by customers who come for one use staying to shop at others.

The change in the mix of retail uses appears to be driven by a number of factors. Banks can afford to pay higher rents than other tenants, particularly for prime corner spots. Banks are also perceived to be easier, more reliable, and more stable tenants. In conversations with Planning staff, bank representatives have expressed that banks desire to locate in a community like Newton because of the above-average median income of its residents and the value of lending opportunities. While internet banking is on the rise, some banks have expressed that a retail presence is still important for advertising their brand. Banks also have the same parking requirements as retail stores, meaning that, in village centers where most parcels lack the parking required by the Zoning Ordinance, banks are allowed to replace retail stores by right, where more active uses, such as restaurants, require more off-street parking that may require a special permit if land for parking is unavailable.

Planning staff have begun to investigate whether this concern is, in fact, harming the retail viability of Newton’s village centers. Working with the Assessing Department, staff identified approximately 40-45 bank branches located in the City or in the process of being established. Most of these banks are concentrated in village centers, including Newton Centre (with eleven banks plus a Scottrade investment services establishment) and Newtonville (with at seven banks). In Newtonville, banks occupy approximately 18% of the approximately 40 retail storefronts south of the Massachusetts Turnpike. Planning staff has obtained a list of banks in Newton in 2007-2011 from the Federal Deposit Insurance Corporation (FDIC) (Attachment A) in cooperation with the Chamber of Commerce (2012 numbers are not yet available). In 2007 there were 41 FDIC-insured bank branches in Newton, as of 2011 there were 43. In reviewing these numbers, staff believes that the total number may increase by two or three banks in 2012 due to new construction and reuse of existing sites. As the available data period includes a national recession, it is difficult to say whether this historical rate is representative of future bank branch growth or what effect no action might have on the retail mix of Newton’s village centers in the future.

Potential Interventions

Many communities across the country have struggled with maintaining a healthy retail mix when one use begins to predominate, whether nightclubs, banks, or pawn shops. The following interventions are zoning-based options for supporting village vitality in the short and/or long term. Under all of these proposed interventions, existing banks would be grandfathered from the new zoning rules; only future banks would be affected.

| Intervention | Pros | Cons |
|--|--|---|
| Equalize or reduce parking requirements for active uses, and/or repeal 50-seat rule* for restaurants | High-activity uses (generating more parking demand) are not disadvantaged in comparison to low-activity uses | May not be enough parking supply; uses that produce less parking demand support uses that produce more demand |
| Restrict low-activity uses at street level | Reserves street level for more active uses, potentially creates market on second or basement levels | Increased application costs and administrative time |
| Create quota system for low-activity uses in each village | Limits the number of banks in each village, clear and easily enforced system | Creates an advantage for existing banks; doesn't distinguish street level; difficulty establishing areas and "right" number |
| Require a buffer zone for low-activity uses | Limits the number of banks in a given area | Creates an even larger advantage for existing banks by preventing nearby competition; doesn't distinguish street level; difficulty setting "right" number |

**Special permit is required for restaurants with more than 50 seats.*

Planning staff views the last two interventions, the quota and the buffer, as the least preferable; they create a large advantage for existing banks by protecting them from new competition, while being difficult to design and calibrate. The first intervention takes the opposite approach by lowering barriers to active uses rather than raising barriers to low-activity uses. Staff views parking as the most important component of a long-term solution to retail vitality in the village center. The Transportation Advisory Group's parking subcommittee is currently discussing parking issues in depth and should produce recommendations during the one-year oversight period. The second intervention, proposed in #162-12, is simpler to implement than the other three and retains an option for discretionary approval by special permit with associated increases in applicant costs and staff time. The bottom three interventions also make it potentially more difficult for property owners to find tenants at the rents they may be accustomed to. Planning staff are researching the experiences of other communities, including Bronxville, NY, Ann Arbor, MI, and Lake Forest, IL, that have attempted to restrict low-activity uses and will provide more information when it is available.

Beyond amending the Zoning Ordinance, the City could develop programs to help new businesses locate in villages. Such programs could include educating property owners and commercial brokers about the advantages of active uses for supporting the economic health of the whole village. Peer-to-peer education by property owners that recognizes the value of balancing the mix of uses would be particularly helpful. A business incubator program could help new small businesses get a foothold and compete for retail space. Improved village promotion, façade improvement grants, improved wayfinding signs, business improvement districts, and other programs could provide specific benefits for active uses and improve the pedestrian vitality of village centers.

Options for reform during the oversight period

At the previous working session, the Committee requested that the Planning Department provide suggestions of how a one-year oversight period could be used to craft an enduring and comprehensive approach to strengthening village center vitality. Staff has identified several options for zoning amendments addressing zoning districts, uses, allowed density, and parking that could individually or collectively help address this issue:

Zones and uses:

- **Village retail overlay zones.** Create overlay zones that alter underlying rules for uses, perhaps including limits on banks, offices, and other uses at street level, allowing restaurants to have more than 50 seats by right, and potentially including changes to parking requirements within the overlay (see below).
- **New village zones.** Create several new zones along the lines of the MU4 reflecting the diversity of villages, incorporating use tables similar to the MU4 and density standards that encourage appropriate redevelopment to increase village vitality; remap existing village centers to revised zones .

Parking:

- **Parking management plans.** Create parking plans for each village center to guide usage of public and private parking facilities
- **Revise parking requirements.** Eliminate parking requirements in village centers (e.g., as in Northampton, MA) or equalize the parking requirement per square foot across uses (uses could change by right, but new development would still require parking).
- **Shared parking.** Allow parking to be more easily shared between uses and different lots.
- **In-lieu fees.** Allow uses to pay a fixed fee to waive required spaces administratively.
- **Citywide parking reform or overlay zones.** Address parking ratios, shared parking, in-lieu fees, etc. either within specific overlay zones or citywide.

SUMMARY

Staff agrees that some zoning changes for village centers could help to maintain and improve the diversity and vitality of the retail mix. An oversight period of one year could level the playing field for banks with more active uses such, as restaurants, while the Board of Aldermen considers more comprehensive approaches to supporting village vitality. If the Board feels that the number of banks presently going into retail storefronts in village centers is a concern, then the proposed temporary special permit requirement will likely slow down the influx of new banks while not prohibiting them, and allow the Board to consider more comprehensive approaches to supporting village vitality in the meantime.

NEXT STEPS

Discussions of parking, overlay zones, and new mixed-use zones are already docketed or underway and will likely be fully vetted by the Board within the next year. The question before the Committee at this point is whether it would also like to attempt to slow down the influx of financial institutions during that time by requiring a special permit for banks at street level while it considers these larger issues.

ATTACHMENT A: FDIC Summary of Financial Institutions in Newton

**FDIC Summary of Deposit Data
Newton Zip Codes
Number of Financial Institutions & Offices
2007 - 2011**

ATTACHMENT A

| <u>Zip Code</u> | <u>Institutions/Offices</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> |
|----------------------------------|-----------------------------|-------------|-------------|-------------|-------------|-------------|
| 02458 - Newton | No of Institutions | 3 | 3 | 3 | 2 | 2 |
| | No. of Offices | 3 | 3 | 3 | 2 | 2 |
| 02459 - Newton Center | No of Institutions | 9 | 9 | 9 | 10 | 11 |
| | No. of Offices | 10 | 10 | 10 | 11 | 11 |
| 02460 - Newtonville | No of Institutions | 6 | 6 | 6 | 6 | 6 |
| | No. of Offices | 6 | 6 | 6 | 6 | 6 |
| 02461 - Newton Highlands | No of Institutions | 4 | 4 | 4 | 4 | 4 |
| | No. of Offices | 4 | 4 | 4 | 4 | 4 |
| 02462 - Newton Lower Falls | No of Institutions | 1 | 1 | 1 | 0 | 0 |
| | No. of Offices | 1 | 1 | 1 | 0 | 0 |
| 02464 - Newton Upper Falls | No of Institutions | 2 | 2 | 2 | 2 | 2 |
| | No. of Offices | 2 | 2 | 2 | 2 | 2 |
| 02465 - West Newton | No of Institutions | 2 | 2 | 3 | 3 | 4 |
| | No. of Offices | 2 | 2 | 3 | 3 | 4 |
| 02466 - Auburndale | No of Institutions | 2 | 2 | 2 | 2 | 2 |
| | No. of Offices | 3 | 3 | 3 | 3 | 3 |
| 02467 - Chestnut Hill | No of Institutions | 6 | 6 | 6 | 6 | 7 |
| | No. of Offices | 8 | 8 | 8 | 8 | 9 |
| 02468 - Waban | No of Institutions | 2 | 2 | 2 | 2 | 2 |
| | No. of Offices | 2 | 2 | 2 | 2 | 2 |
| Grand Total All Zip Codes | No. of Offices | 41 | 41 | 42 | 41 | 43 |

Source: FDIC.gov FDIC Summary of Deposit Data as of June 30 for each year listed.

FDIC Summary of Deposit Data
Newton Zip Codes
Number of Financial Institutions & Offices
2007 - 2011

| <u>Institution</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> |
|-------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Bank of America | 12 | 12 | 12 | 10 | 9 |
| Benjamin Franklin Bank | 1 | 1 | | | |
| Boston Private Bank & Trust | 1 | 1 | 1 | 1 | 1 |
| Brookline Bank | 4 | 4 | 4 | 4 | 4 |
| Cambridge Savings Bank | 1 | 1 | 1 | 1 | 1 |
| Central Co-operative Bank | 1 | 1 | 1 | 1 | 1 |
| Century Bank & Trust | 1 | 1 | 1 | 1 | 2 |
| Citibank | 1 | 1 | 1 | 1 | 2 |
| Eastern Bank | 2 | 2 | 2 | 2 | 3 |
| First Commons Bank | | | | 1 | 1 |
| Peoples Federal Savings Bank | | | | | 1 |
| RBS Citizens | 5 | 5 | 5 | 5 | 5 |
| Rockland Trust | | | 1 | 1 | 1 |
| Sovereign Bank | 4 | 4 | 4 | 4 | 4 |
| TD BankNorth | 1 | 1 | 1 | 1 | 1 |
| The Village Bank | 6 | 6 | 7 | 7 | 7 |
| Wainwright Bank & Trust | 1 | 1 | 1 | 1 | |
| Total Number of Offices | 41 | 41 | 42 | 41 | 43 |
| Total Number of Institutions | 14 | 14 | 14 | 15 | 15 |

**FDIC Summary of Deposit Data
Newton Zip Codes
Number of Financial Institutions & Offices
2007 - 2011**

| <u>Institution</u> | <u>Address</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>2010</u> | <u>2011</u> |
|------------------------------|------------------------------------|-------------|-------------|-------------|-------------|-------------|
| Bank of America | 430 Centre Street, 02458 | 1 | 1 | 1 | | |
| | 808 Beacon Street, 02459 | 1 | 1 | 1 | 1 | 1 |
| | 32 Langley Road, 02459 | 1 | 1 | 1 | 1 | |
| | 303 Walnut Street, 02460 | 1 | 1 | 1 | 1 | 1 |
| | 1160 Walnut Street, 02461 | 1 | 1 | 1 | 1 | 1 |
| | 24 Monroe Street, 02462 | 1 | 1 | 1 | | |
| | 235 Needham Street, 02464 | 1 | 1 | 1 | 1 | 1 |
| | 1 Chestnut Street, 02465 | 1 | 1 | 1 | 1 | 1 |
| | 199 Boylston Street, 02467 | 1 | 1 | 1 | 1 | 1 |
| | 21 Boylston Street, 02467 | 1 | 1 | 1 | 1 | 1 |
| | 325 Beacon Street, 02467 | 1 | 1 | 1 | 1 | 1 |
| | 466 Woodward Street, 02468 | 1 | 1 | 1 | 1 | 1 |
| | Total | 12 | 12 | 12 | 10 | 9 |
| Benjamin Franklin Bank | 40 Austin Street, 02460 | 1 | 1 | | | |
| Boston Private Bank & Trust | 1223-1227 Centre Street, 02459 | 1 | 1 | 1 | 1 | 1 |
| Brookline Bank | 10 Langley Road, 02459 | 1 | 1 | 1 | 1 | 1 |
| | 323 Walnut Street, 02460 | 1 | 1 | 1 | 1 | 1 |
| | 43-45 Lincoln Street, 02461 | 1 | 1 | 1 | 1 | 1 |
| | 1018 West Roxbury Parkway, 02467 | 1 | 1 | 1 | 1 | 1 |
| | Total | 4 | 4 | 4 | 4 | 4 |
| Cambridge Savings Bank | 739 Beacon Street, 02459 | 1 | 1 | 1 | 1 | 1 |
| Central Co-operative Bank | 1192 Boylston Street, 02467 | 1 | 1 | 1 | 1 | 1 |
| Century Bank & Trust | 32 Langley Road, 02459 | | | | | 1 |
| | 31 Boylston Street, 02467 | 1 | 1 | 1 | 1 | 1 |
| | Total | 1 | 1 | 1 | 1 | 2 |
| Citibank | 792 Beacon Street, 02459 | 1 | 1 | 1 | 1 | 1 |
| | 631 VFW Parkway, 02467 | | | | | 1 |
| | Total | 1 | 1 | 1 | 1 | 2 |
| Eastern Bank | 1255 Centre Street, 02459 | | | | | 1 |
| | 188 Needham Street, 02464 | 1 | 1 | 1 | 1 | 1 |
| | 2060 Commonwealth Avenue, 02466 | 1 | 1 | 1 | 1 | 1 |
| | Total | 2 | 2 | 2 | 2 | 3 |
| First Commons Bank | 718 Beacon Street, 02459 | | | | 1 | 1 |
| Peoples Federal Savings Bank | 991 Watertown Street, 02465 | | | | | 1 |
| RBS Citizens | 300 Washington Street, 02458 | 1 | 1 | 1 | 1 | 1 |
| | 1188 Centre Street, 02459 | 1 | 1 | 1 | 1 | 1 |
| | 305 Walnut Street, 02460 | 1 | 1 | 1 | 1 | 1 |
| | 1126 Beacon Street, 02461 | 1 | 1 | 1 | 1 | 1 |
| | 1330 Boylston Street, 02467 | 1 | 1 | 1 | 1 | 1 |
| | Total | 5 | 5 | 5 | 5 | 5 |
| Rockland Trust | 40 Austin Street, 02460 | | | 1 | 1 | 1 |
| Sovereign Bank | 780 Beacon Street, 02459 | 1 | 1 | 1 | 1 | 1 |
| | 35 Austin Street, 02460 | 1 | 1 | 1 | 1 | 1 |
| | 1314 Washington Street, 02465 | 1 | 1 | 1 | 1 | 1 |
| | 1228 Boylston Street, 02467 | 1 | 1 | 1 | 1 | 1 |
| | Total | 4 | 4 | 4 | 4 | 4 |
| TD BankNorth | 1197 Centre Street, 02459 | 1 | 1 | 1 | 1 | 1 |
| The Village Bank | 411 Watertown Street, 02458 | 1 | 1 | 1 | 1 | 1 |
| | 332 Walnut Street, 02460 | 1 | 1 | 1 | 1 | 1 |
| | 56 Winchester Street, 02461 | 1 | 1 | 1 | 1 | 1 |
| | 1365-1369 Washington Street, 02465 | | | 1 | 1 | 1 |
| | 307 Auburn Street, 02466 | 1 | 1 | 1 | 1 | 1 |
| | 120 Seminary Avenue, 02466 | 1 | 1 | 1 | 1 | 1 |
| | 89 Wyman Street, 02468 | 1 | 1 | 1 | 1 | 1 |
| | Total | 6 | 6 | 7 | 7 | 7 |
| Wainwright Bank & Trust | 1255 Centre Street, 02459 | 1 | 1 | 1 | 1 | |